



COUNCIL AGENDA: 4/11/06

ITEM: 6.3

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: William F. Sherry, A.A.E.

SUBJECT: SEE BELOW

DATE: April 5, 2006

Approved

Date

4/6/06

COUNCIL DISTRICT: Citywide

SUBJECT: APPROVAL OF A FIRST AMENDMENT TO THE SCHEDULED AIRLINE OPERATING AGREEMENT AND CONTINUATION AGREEMENT WITH SKYWEST AIRLINES

RECOMMENDATION

Approval of a Continuation Agreement and First Agreement to the Scheduled Airline Operating Agreement and License between the City of San José and Skywest Airlines, Inc., to extend the term from May 31, 2003 through November 30, 2007, and to amend the agreement to include provisions regarding compliance with the City's Airport Curfew Ordinance, with continuing annual revenue to the City of approximately \$360,000.

OUTCOMES

If the First Amendment and Continuation Agreement is approved, Skywest will continue to offer scheduled airline service as a contract carrier to other passenger airlines at the Airport. In addition, Skywest agrees to operate in accordance with the Airport Curfew ordinance, as well as other curfew restrictions that may be subsequently adopted by the City in accordance with applicable laws.

BACKGROUND

The City of San José entered into a Scheduled Airline Operating Agreement and License with Skywest Airlines ("Skywest") in 1998. The operating agreement between the City and Skywest expired on May 31, 2003, and Skywest has continued operations at the Airport on a month-to-

month holdover basis. Skywest currently operates daily flights for United Express between San José and Los Angeles International Airport and Santa Barbara, and for Delta Connection between San José and Salt Lake City.

ANALYSIS

The First Amendment incorporates the specifics of the City's Airport Curfew ordinance as adopted by Council on October 21, 2003. In addition to Skywest's agreement to comply with the Airport Curfew and any subsequent amendments to the ordinance, the First Amendment also provides that Skywest will not schedule or conduct takeoffs or landings during the Curfew Hours between 11:30 pm and 6:30 am, unless any such takeoff or landing is conducted by a jet aircraft that is listed on the Schedule of Authorized Aircraft issued by the Director of Aviation. In addition, the First Amendment provides that if a jet aircraft is not listed on the Schedule of Authorized Aircraft, Skywest will operate the aircraft during Curfew Hours only if Skywest demonstrates in writing to the Director that the FAA part 36 manufacturer certificated noise level of such aircraft (using the arithmetic average of the takeoff, sideline, and approach noise levels) is equal to or less than 89.0 EPNdB (Effective Perceived Noise Decibel Level). Finally, the First Amendment provides that Skywest shall restrict static jet engine testing during the Curfew Hours.

The current fleet of aircraft operated by Skywest Airlines (Embraer EMB-120 Brasilia and Canadair RJ-UA/DL Regional Jet), are all listed on the Schedule of Authorized Aircraft and are therefore allowed to takeoff and land at the airport during Curfew Hours. In an effort to further reduce operations during the Curfew Hours, staff requested that Skywest sign a Mutual Agreement Regarding Curfew Compliance whereby Skywest would voluntarily agree not to conduct operations during the Curfew Hours, regardless of the fact that Skywest's fleet of aircraft are permitted to operating during the Curfew Hours. Although Skywest does not currently operate during the Curfew Hours at the airport, Skywest has declined to sign the proposed Mutual Agreement Regarding Curfew Compliance. Similarly, while Skywest has informed staff that it presently has no intention to operate compliant aircraft during the Curfew Hours, Skywest has declined staff's request to make this commitment in a written agreement.

PUBLIC OUTREACH

Not applicable.

COORDINATION

This agreement was coordinated with the City Attorney's Office and the Finance Department/ Risk Management Division.

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COST IMPLICATIONS

The approval of the proposed amendment would provide continuing revenue to the Airport, and thus be consistent with the general principles of the February 4, 2003 budget strategy memo approved by Council.

CEQA

Resolution No. 67380, PP 03-02-065



WILLIAM F. SHERRY, A.A.E.
Director of Aviation
Airport Department

WFS:so